

ORDINANCE NO. 929

**AN ORDINANCE OF THE TOWN OF HOLLYWOOD PARK, TEXAS, ESTABLISHING CHAPTER 72 TREES AND PUBLIC TREE CARE AND ADOPTING ARTICLE III "PUBLIC TREE CARE" AS AN AMENDMENT TO CHAPTER 72 OF THE CODE OF ORDINANCES; TO PROVIDE FOR THE CARE OF PUBLIC TREES; TO CREATE A TREE ADVISORY BOARD; TO ESTABLISH PRACTICES GOVERNING THE PLANTING, CARE AND REMOVAL OF TREES ON PUBLIC PROPERTY; TO MAKE PROVISION FOR THE REMOVAL OF DISEASED OR NUISANCE TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the Town of Hollywood Park recognizes that trees generally protect and enhance the quality of life and general welfare of the town; and

**WHEREAS**, the citizens of Hollywood Park have long valued trees as a natural and often irreplaceable community resource and recognize them as assets for their beauty and service; and

**WHEREAS**, the City Council of Hollywood Park has further determined that the protection and care of trees located on city property is essential to the present and future health, safety, and welfare of all citizens, and accordingly, have determined that the adoption and implementation of this "Public Tree Care" ordinance is meritorious and necessary.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HOLLYWOOD PARK, TEXAS:**

**PART 1:** The Code of Ordinances of the Town of Hollywood Park is hereby amended by adding a new Chapter 72 Trees & Public Tree Care to read as follows:

**"Chapter 72**

**TREES AND PUBLIC TREE CARE**

**Article I. In General**

**Secs. 72-1—72-10. Reserved.**

## **Article II. Trees**

**Secs. 72-11—72-30. Reserved.**

## **Article III. Public Tree Care**

### **Sec. 72-31. Purpose.**

To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the removal of diseased or nuisance trees on private property under certain conditions.

### **Sec. 72-32. Definitions.**

As used in this Article, the following words and phrases shall have the meanings indicated:

*Damage* – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

*Nuisance* – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.

*Parkway* – the area along a public street or alley between the paved portion of the street or alley and the adjacent property line.

*Public property* – all grounds and rights-of-way (ROWs) owned or maintained by the City.

*Public tree* – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

*Top or Topping* – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**Sec. 72-33. Authority and power.**

(a) *Delegation of authority and responsibility.* The Public Works Department Head and/or their designee, hereinafter referred to as the "Director," shall have the authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all city streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

(b) *Coordination among city departments.* All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the Director.

(c) *Interference.* No person shall hinder, prevent, delay, or interfere with the Director or their agents while engaged in carrying out the execution or enforcement of this Ordinance.

**Sec. 72-34. Tree advisory board.**

The City Council hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

(a) *Membership.* The Board shall consist of 5 (five) members appointed and approved by the City Council. Members of the Board will serve without compensation.

(b) *Term of office.* Board members shall be appointed for 2-year staggered terms, aligned with the terms of the respective Council member making the appointment. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by the Council member responsible for the Board place and approved by City Council. All Board members serve at the will of the City Council and may be removed at any time, with or without cause, consistent with state law.

(c) *Officers.* The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.

(d) *Meetings.* The Board shall meet a minimum of 6 times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as required or cancel scheduled meetings as deemed necessary.

(e) *Duties.* The Board shall act in an advisory capacity to the Director and shall:

(1) Coordinate and promote Arbor Day activities generally during October;

- (2) Review and update a five-year plan to plant and maintain trees on city property;
- (3) Support public awareness and education programs relating to trees;
- (4) Review city department concerns relating to tree care;
- (5) Submit an annual report at the June Council meeting of its activities to the city council;
- (6) Assist with the annual application to renew the Tree City USA designation;
- (7) Develop of a list of recommended trees for planting on city property;
- and
- (8) Other duties that may be assigned by the Mayor or City Council.

**Sec. 72-35. Tree planting and care standards.**

(a) *Standards.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(b) *Requirements of franchise utility companies.* Franchise utility companies shall provide advance notice to the City of their intended non-emergency tree pruning schedule and location of impacted area. The maintenance of public trees for utility clearance shall conform to ANSI A-300 and BMPs as prescribed in paragraph (a) above.

(c) *Tree species list.* The Director shall develop and maintain an official list of desirable tree species not susceptible to Oak Wilt, for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the Director.

(d) *Planting distances.* The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle as referenced in Section 14-530, (b), of a street intersection or within ten (10) feet of a fire hydrant.

(e) *Planting trees under electric utility lines.* Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

(f) *Protection of public trees during construction.* Any person, firm, corporation, or city department performing construction in the area of any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent any damage.

(g) *Trimming/pruning of public trees.* Public trees shall be trimmed or pruned utilizing proper disease avoidance precautions such as no pruning in spring, wound

painting adherence, tool sterilization, etc. Oak trees of any type within the corporate limits of the city shall be trimmed/pruned in hot temperate months (July, August, September) or cold temperate months (December, January, February) unless an exception is deemed necessary by the Director relating to the health, safety, and welfare of the citizens.

(h) *Oak Wilt prevention controls of public trees.* The Director shall ensure that the Oak Wilt prevention controls prescribed in Section 38-46 or other areas of the Code of Ordinances pertaining to the same subject are complied with as applicable for public trees.

**Sec. 72-36. Adjacent owner responsibility.**

(a) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent parkway area.

(b) No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard or nuisance that threatens public health, safety, and welfare. Any obstruction deemed by the Director or Compliance Department to be an immediate hazard or nuisance that threatens public health, safety, and welfare shall be removed / corrected immediately. The Director may make necessary corrections at the owner's expense or may notify the property owner to correct the immediate hazard or nuisance. For all non-immediate obstructions which do not pose an immediate hazard or nuisance, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice within 30 days, the City may undertake the necessary work and charge the cost to the property owner.

**Sec. 72-37. Prohibition against harming public trees.**

(a) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

(b) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree. Temporary decorative objects such as patriotic material, etc., draped around trunks or over major limbs may be placed on public trees after approval from the Director. Under no circumstances may the temporary decorative material be hazardous to the tree as determined by the Director.

(c) It shall be unlawful for any person, firm or corporation to "top" any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

#### **Sec. 72-38. Certain trees declared a nuisance.**

Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal within 30 days as specified by the Director within the written notification period. In the case of an obstruction or other situation that creates an immediate hazard or nuisance that threatens public health, safety, and welfare, as deemed by the Director or Compliance Department, corrective action shall be taken immediately. The Director may make necessary corrections at the owner's expense or may notify the property owner to correct the immediate hazard or nuisance immediately.

#### **Sec. 72-39. Violations**

The Director shall seek voluntary compliance with the provisions of this chapter to the extent feasible. If the Director determines that there has been a violation of this chapter and such violation is not an immediate hazard or nuisance, the Director shall notify the alleged violator in person or by certified return receipt requested mail of the violation and the action required of the alleged violator. If the alleged violator fails to cure the violation within ten (10) days of delivery in person or of the mailing of a notice of violation, a citation shall be issued to the alleged violator, and the violator shall be subject to a fine as provided in Section 1-15 of the Code of Ordinances. Each day that such violation shall occur, continue or be permitted to exist shall constitute a separate offense. If an alleged violator disputes the violation within ten (10) days after the delivery or mailing of a notice of violation by the Director, and before a citation is issued, the alleged violator may appeal the notice of violation to the Tree Advisory Board, which shall meet to consider the appeal and seek to reach a settlement of the violation. If a settlement is not reached, or if a settlement is reached and the alleged violator fails to comply with the settlement, the Director shall proceed to cause a citation to be issued and processed in the Municipal Court of the Town of Hollywood Park the same as other violations of the Code of Ordinances. If the Director determines that a violation of this chapter is an immediate hazard or nuisance, the Director may refrain from issuing a notice of violation and proceed directly to the issuance of citation in the Municipal Court.

#### **Sec. 72-40. Injunctive relief also available for violation**

Any person who shall fail to comply with any provision of this chapter, or who shall commit any of the acts described by this chapter, or be guilty of any of the omissions thereof, shall be liable to injunctive action, being subject to being enjoined and mandatorily enjoined in any court of competent jurisdiction, and shall be liable and responsible for any and all expenses that may be incurred by the City in connection with any such action, omission or other violation, including reasonable attorney fees.

**PART 2. Savings/repeal.**

That all ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

**PART 3. Severability.**

That should any word, sentence, clause, paragraph or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

**PART 4. Effective date.**

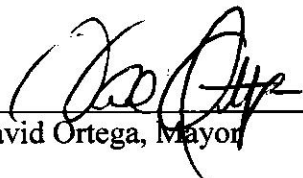
That this Ordinance shall become effective after its passage and publication according to law.

**PASSED, APPROVED and ADOPTED** by the City Council of Hollywood Park, Texas, on this 16<sup>th</sup> day of July, 2013.


**ATTEST:**

  
City Secretary



  
David Ortega, Mayor

**APPROVED AS TO FORM:**

  
City Attorney